

## MR. GIBBS ON THE STAND.

He Tells What He Knows About The Case in Question.

The Business Manager Put Through the Mill. He Did Not Read the Article, Only Read Advertisements. Went to See the Book Publishers.

The interest in the Massey-Pilot suit is not confined alone to this city, but the press of the entire country is giving it large space. The telegraph wires nightly carry thousands of words and big fat letters leave Norfolk daily for the newspapers to be reached by mail. The people of Norfolk are taking great interest, and daily since the trial began last Monday, prominent citizens have been attending court. While all of the evidence is of more than ordinary interest, it is safe to say that nearly all of these people are watching for Mr. Massey's appearance upon the stand.

As the plaintiff, he is the most important witness. How he will answer many of the questions which the defense will be certain to put is a matter which the public is curious to know. That Mr. Massey will meet the issue squarely and fairly the public have a right to presume, judging from the aggressiveness of his counsel. It was thought that after all of the documentary evidence was in Mr. Massey would be the first witness called and as that evidence was submitted and argued on Thursday, many confidently expected to see Mr. Massey on the stand yesterday.

This expectation attracted a crowd much larger than the courthouse would hold, and after the building was packed almost to suffocation there were hundreds who hung about the corridors and discussed the great suit. A man looking for information could learn as much if not more from the perambulating gathering on the green than he could from the lawyers inside. The spectators are all on the outside and have fixed up all kinds of verdicts.

When the Court was called to order and all of the lawyers in place, instead of requesting Hon. John E. Massey, Attorney General Scott or one of the Governors, O'Ferrall or McKinnay to take the stand, the plaintiff determined to carry the "war into Africa," and called Mr. W. W. Gibbs, the business manager of the Pilot. This was entirely unexpected, so unexpected that Mr. Gibbs was not present. The Governor was there, so was Mr. Massey, but the plaintiff, having jumped out on an aggressive fight, determined to go into the Pilot's office for their first information.

It was stated that Mr. Gibbs was at home sick, but would come to court if sent for. He had, however, placed the books and papers desired in the care in charge of the clerk. A Deputy Sheriff was instructed to hunt up Mr. Gibbs, and in a short while he was on the witness stand.

## MR. GIBBS ON THE STAND.

Mr. Waite conducted the examination. Mr. Gibbs said that he was business manager of the Pilot and that Mr. Small was editor when the article complained of was published. Mr. Small was managing editor till April 11th. The witness said that the December 23d issue of the Pilot was 25,000; that 4,000 of the papers were sent to Mr. R. E. Byrd, of Winchester, but not as agent of Ginn & Co. When asked if he did not know that Mr. Byrd was agent of Ginn & Co., the book publishers, said that he did not, but he believed that he was.

Two letters, of June 7th and 8th, from the Pilot to Judge Heath were shown witness, and he said he recognized them as the Pilot's letters, but didn't think that the last letter was sent to Judge Heath.

The defense objected to the introduction of these letters as they were privileged communications from client to counsel.

Mr. Waite contended that when such letters become known to a third party they are no longer privileged; that these letters came into court as a part of the Pilot's papers. Mr. Waite produced authority to show that even if the letters had been extracted, no matter how, from the Pilot's they would no longer be privileged papers and in this instance they had been surrendered by the Pilot voluntarily.

Mr. Wise denied this saying that they came into court under a subpoena and they were seen by the plaintiff by courtesy.

Mr. Waite insisted that the papers had been surrendered—voluntarily—although under a subpoena.

Judge Prentiss asked, "Suppose they had been sent under seal, what then?" Mr. Waite replied that they did not come under seal, but in an open box.

Mr. Wise said though the letters were in open boxes they were in the hands of the clerk, the officer of the court.

Mr. Waite then said Mr. Gibbs having admitted that one of the letters was not delivered to Judge Heath it could not be classed as privileged. He also maintained that the first letter not be considered privileged as it was known to be a third party.

## THE AFFIDAVIT.

Mr. Thom read the affidavit under which the subpoena in question was issued. It recited a number of documents which the plaintiff believed were in the possession of the Pilot—telegrams from Ginn & Co. to the Pilot, &c. Mr. Thom contended that as these letters from the Pilot to Judge Heath were not mentioned in the plaintiff's affidavit or subpoena, they were produced by the defense of their own accord, and are therefore not privileged. Capt. Wise maintained that the letters had been seen in confidence by the counsel for the plaintiff and had been seen for the purpose of inspection. Mr. Wise said if a rascally scoundrel had prepped into court and stolen the papers

for the purpose of swearing to them afterwards he could not do the defense greater injury than the honorable gentleman on the other side would do if they used the evidence secured through courtesy.

Mr. Thom insisted that it was a legal question.

Capt. Wise said: "You gentleman, don't want to play sharp practice on us."

Mr. Thom said to Capt. Wise that he had already bordered on a treatment of the matter that would not be tolerated by the plaintiff's counsel, and that he (Wise) would have to address himself to the legal phase of the matter.

Mr. Neely said he could not see that the plaintiff's counsel could be said to have had the letters "for inspection" as distinguished from "for use," that his side had a right to see them; that if the Pilot had consulted counsel they would have been advised to bring in only the papers called for by the affidavit, and that no matter how carefully the Pilot acted in sending the letters in question, they were sent, and the plaintiff has a right to use them; that the plaintiff did not come by them clandestinely; that they are the voluntary offering of the defense, carelessly it may be, and the plaintiff has a right to use them.

Capt. Wise held that papers were called for by the plaintiff, in a general way, and the batch was sent by the defense, the admissibility of which as evidence was to be passed upon, as the defense understood, by the Court; that if any papers had been left out, that it might have been said that the defense had not responded to the subpoena; that the papers were sent and placed in the hands of the Court; that the defense did not give the plaintiff the right to root among those papers and take what they pleased, but were only allowed to inspect the papers and see which they would try to introduce.

THE LETTERS PRIVILEGED.

Judge Prentiss decided that the letters were privileged communications from client to counsel and could not be introduced as evidence. Exceptions were noted by Mr. Waite.

Mr. Gibbs said, in reply to the authorship of the libelous article, that he did not know who was the author; that he was told by Mr. Small that he had an article in preparation in reference to the American Book Company. He said he replied that he thought it would be a good thing, as he had no confidence in that article since publication; might have read a part of it before publication; did not remember.

In reply to a question, said he did not know, but Mr. Byrd prepared the article, but for himself he believed he did. He did not know that Mr. Byrd was the agent of Ginn & Co., in fact did not know there was such a firm in the world till this matter came up, he however, for himself, believed that Byrd was their agent. Mr. Gibbs said after suit was entered that he visited the various book publishers and asked them to bear a part of the expenses of the suit. He thought they would be the beneficiaries and should pay some of the money. He called on Ginn & Co., and they refused to pay anything and said that Byrd was not their agent.

If he was not mistaken, Byrd said the same, but he thought otherwise. He did not consider that Ginn & Co. were responsible, but thought that all of the book men who were fighting the American Book Company should assist the Pilot by a contribution. Said he had never had any communication with Ginn & Co.; that he visited them in person; that he was after the dollar and went after it.

In reply to Mr. Thom, said: I did not claim that Ginn & Co. were responsible, but I claimed that they should help us to fight this suit and they refused.

The company called on Mr. Byrd to furnish the facts, I always believed he wrote the article.

THE AUTHOR OF THE ARTICLE.

Had an interview with Mr. Byrd and that Mr. Byrd did not deny that he was the author of the article.

Mr. Thom asked if Mr. Byrd did not say he had arranged the fees for Judge Heath and Mr. Wise. Objection was raised on the ground that Mr. Byrd was counsel. Then following questions to ascertain when Mr. Byrd was engaged as counsel and Mr. Gibbs said from the jump.

"Now," said Mr. Thom, "did or did not the directors say that they would have to look out for themselves as individuals if Ginn & Co. would not defend the suit?"

Mr. Gibbs admitted that this was so.

In speaking of the article in question Mr. Small only mentioned Mr. Massey's name incidentally.

Mr. Gibbs said he did not read the Pilot except the advertisements; did not read any of the articles attacking Mr. Massey. He believed that the book article would produce a sensation.

Mr. Neely asked if he had not said to a gentleman in Staunton that the sale of the papers would more than pay the cost of suit. Objection raised to the question and sustained.

In reply to a question from Mr. Thom, said that he thought the article would produce a big sensation.

When the court adjourned at 3 o'clock Mr. Gibbs was still on the stand and will likely be before the court a good part of to-day's session.

## NOTES.

It now appears that all of the inwardness of this publication is known to Mr. Small and Mr. Small alone, hence when he gets on the stand there will be fun.

Mr. Massey, who has watched the progress of the case daily, took notes yesterday.

One of the most interested spectators was Attorney General Scott, who frequently smiles when a witness is in a close place. He also enjoys immensely the bits between the lawyers.

Several editors of country papers put in an appearance yesterday and took notes.

It is very certain that this case will

go beyond the Fourth of July. Every inch of ground is being contested. Judge Rea and State Senator Flood, who were in court on Monday and Tuesday, were absent yesterday.

The Governor and Attorney-General were on the Judge's bench yesterday and many of Norfolk's citizens who had never seen them, O'Ferrall, went around to the Court room to get a look at the Chief Executive.

Among Our Cotton Men.

Weather generally favorable in the cotton belt yesterday.

United States ports received 214 bales cotton, against 1,327 bales last year and 1,494 bales in 1891.

Liverpool future market advanced 1 to 2-64ths, closing steady. Spot sales 10,000 bales.

New York future market advanced 3 to 4 points, closing quiet and steady. August, 6.78 to 6.79; October, 6.87 to 6.88; January, 7c to 7.01. Sales, 15,400 bales.

Bar silver in London, 30 1/2 per ounce, 1d advance.

Summary of the crop movement during week is as follows:

Receipts U. S. Ports week 1895 1894

Exports at U. S. ports 25,004 31,955

Stocks U. S. ports 410,363 343,172

Port receipts since 1st

Port receipts since 1st 2,895,867 5,29,571

Brought in sight 11,217 1,247

Crop in sight 1,415,705 7,31,662

Texas last year had her first bale of new cotton on Wednesday, June 26th, 1894.

## RUN DOWN BY LOUISE.

Two Men and a Sail Boat Struck off Lambert's Point.

Yesterday morning two men employed as deck hands on the large David Crockett, while off Lambert's Point in a sail boat, were run down by the steamer Louise. They were thrown into the water and of one named Martin Matson received a cut on the head.

The steamer was stopped and life preservers and lines were thrown to the men, and the steamer waited till the tug Mamie came up on which the two men were taken and carried to the pier at the point.

The wounded man was brought to Norfolk, his wound dressed by the marine surgeon, after which he was taken to St. Vincent's Hospital. Capt. Warren, of the Louise, says he blew three times for the men, but they paid no attention.

Death of Capt. Trower.

Capt. J. R. Trower died at his residence, No. 151 Peachtree street, yesterday at 11 o'clock, aged 64 years. Capt. Trower was a native of Northampton county, and has been connected with the Old Dominion Steamship Company for many years, serving on the bay steamer.

Capt. Trower was well known to the public and generally popular. During the war he was captain of a mail boat that ran from Richmond to the gun boats on James river. He was for many years first officer under Capt. McCarrie, and at his death succeeded him in command of the steamer Northampton.

The funeral will take place from residence Sunday afternoon at 5:30.

Police Court.

Justice Barron's yesterday fined Lucy Carter, colored, larceny of a ring, valued at \$7.50, the property of R. M. Hubbard, sentenced to three months in jail. An appeal was taken.

Wm. Jones and Wm. Smith, colored, unlawful trespass; sent out of the city. Clifton Curry, white, assault; continued till to-day.

A. Tucker and Louis Saron, white, assault; fined costs.

T. J. Richardson, white, assault on T. R. Towles; continued.

The North Carolina Pharmaceutical Association.

The sixteenth annual meeting of the North Carolina Pharmaceutical Association will take place at Morehead City, July 10th, at 10 o'clock a. m.

The meeting of the State Board of pharmacy for the examination of candidates will be held at the same place July 24th, at 9 o'clock a. m.

The Ladies.

The pleasant effect and perfect safety with which ladies may use the California Liquid Laxative, Syrup of Figs, under all conditions, makes it their genuine remedy. To get the true and genuine article, look for the name of the California Fig Syrup Co., printed near the bottom of the package.

14th July.

Excursions to the Mountains of Virginia Via the Norfolk and Western Railroad.

Reduced rates to all local stations. Round trip rate from Norfolk to Richmond, \$3.50. Tickets on sale July 2d and 3d, and morning train of July 4th, and until July 7th, 1895. For tickets, time tables and all other information, apply to C. H. Bosley, City Ticket Agent, 66 Main street, or at depot.

je29,30,31 Dist. Pass. Agent.

"Many of the citizens of Rainville Indiana are never without a bottle of Chamberlain's Cough Remedy in the house," says Jacob Brown, the leading merchant of the place. This Remedy has proven of so much value for colds, croup and whooping cough in children that few mothers who know its worth are willing to be without it. For sale by all druggists.

Money in Your Pockets.

Another gigantic purchase of White Duck and fancy Marcelline Vests—genuine \$2 and \$2.50 garments—phenomenally underpriced at 10c.

The Hub, 207 and 209 Main street.

The Equitable Life Assurance Society.

Is the strongest Life Insurance Company in the world.

A. MYERS, Manager.

Lead Tea at Mac's, Ice Cream at Mac's.

## NORFOLK NEWS IN BRIEF

Newsy Items Gathered In and Put to Record.

The Motion for a New Trial in the Moloney-Corsin Case Overruled.

Personal Mention. Appointment of Chief Engineer and Other Interesting Notes.

Judge Hughes, of the United States Court, will arrive in the city to-day. A literary society is to be organized by the younger members of the Y. M. C. A.

Mayor Jones, of Roanoke, also Hon. A. P. Staples, are stopping a few days at Ocean View and Norfolk.

Flags were at half-mast on some of the steamers in the harbor yesterday in respect to the memory of Capt. Trower.

William Johnston was yesterday appointed postmaster at Ocean View, Norfolk county, vice W. L. Brooke, resigned.

The shipments of coal from Lambert's Point for the week ending June 27th were 21,226 tons; since January 1st 758,080 tons.

Thanks are returned to the Navigating Officer of the receiving ship Franklina for copies of the port calendar for the month of July.

Mass will be said at St. Joseph's Catholic Church at 7 a. m. Sunday morning. Until further notice there will be mass at 10 o'clock.

City Attorney Shelton received notice yesterday morning that the Court of Appeals has awarded a writ of error in the case of Vellines vs. Bolton and Verdier.

Misses Marguerite Burruss, Emma Freeman and Mr. Charter Burruss are attending the finals at Lexington. On their return they will visit Natural Bridge and various places of interest.

A motion for a new trial in the case of Mary Molony against W. W. Corson, in which the jury rendered a verdict for the defendant, was heard in the Court of Law and Chancery yesterday morning and overruled.

Mr. W. W. Gwaltney has been appointed chief engineer of the Seaboard Air Line. He will have charge of all matters pertaining to the maintenance and construction of tracks, bridges, buildings and other property of the company's embraced in this line.

Preaching in the Lutheran Church, on Charlotte street, between Grauby and Brewer streets, by the pastor, Rev. J. E. Shunk, at 11 a. m. and 8 p. m. evening, "The Three Crosses." At 10 o'clock, meeting of special interest to the Sunday-school. New members will be received into the church at the morning service. Special programme of music arranged for these services. Prof. Maxim will play the organ.

Goose Island Flat Lighted Buoy.

Notice is given that on or about July 1, 1895, a gas lighted buoy, painted red, and showing a fixed white light, will be substituted for the first class nun buoy, No. 26, now marking Goose Island Flat, off Pungue Neck, on the New Jersey side of the river.

Deep Water Point Range Rear Light, No. 1 N. Finn's Point Range Rear Light, E. S. New Castle Range Front Light, N. W. 1 W.

Special Sale continued.

All the big bargains we advertised in Sunday's paper at same low prices as advertised. Those large white bed spreads at 50c are a great surprise; the large beauty towels at 21c each have never been equalled; a few pieces left of the all wool serge at 25c yard; the 50c cottomen at 30c yard; another case of Merrimack calicoes, 40c; and ginghams at 50c yard; androscoggin, 10 1/4 ready hemmed sheets, 50c; pillow cases, 10c; boiler cases, 25c each. Don't miss this week's sale. Levy Bros., 174 Main street.

To Telephone Subscribers.

Do you know that you can have a second telephone at your private desk, which can be connected with the one in your counting room, so that when there is a message for your own ear, or you wish to engage in personal conversation without leaving your chair? All this costs but little over the original expense of a telephone. We will send particulars on request.

je21-1m J. W. CREWS.

What is the eye? Mirror to the soul. Take good care of it. If in trouble see Dr. Week, at F. H. Gale's.

DEED.

TROWER—At his residence, No. 141 Peachtree street, at 10 o'clock yesterday forenoon, Captain JOHN R. TROWER, in the 64th year of age.

Funeral will take place from the residence of SUZANNE TROWER at 5:30 o'clock (Sunday morning) at 1410 1/2 street and Washington street (on public cars copy).

WILKINS—At his residence, No. 532 Fayette street, Portsmouth, Va., June 27th, 1895, at 4:45 p. m. JOHN E. WILKINS, aged 31 years, 4 months and 29 days.

The funeral services will take place at the residence of THE SUNDAY AFTERNOON at 4 o'clock. Friends and acquaintances are respectfully invited to attend.

MEETINGS.

THE ANNUAL MEETING OF STOCKHOLDERS OF THE NORFOLK TERMINAL AND COASTAL STEAMSHIP CO., Norfolk, Va., will be held at 10 o'clock a. m. at Atlantic Hotel, Norfolk, Va., on TUESDAY, July 30th, 1895.

By order of the President.

je29,30,31 JOHN A. WELSH, Secretary.

CITY NATIONAL BANK.

THE DIRECTORS OF THE CITY NATIONAL BANK have today declared a semi-annual dividend of 3 per cent. from the earnings of the bank for the past six months, payable on and after JULY 1st, 1895.

B. W. LEIGH, Cashier.

je24-4w

THE ANNUAL MEETING OF THE STOCKHOLDERS OF THE CITIZENS BANK OF NORFOLK, VA., will be held at its banking house on MONDAY, July 30th, 1895, at 12 o'clock a. m.

WALTER H. DOYLE, Cashier.

je29-30,31

## WEATHER REPORT.

Forecast for To-day.

WASHINGTON, D. C., June 29, 1895.

FAIR For Virginia: Fair; slight changes in temperature; variable winds.

For North Carolina: Fair; southeastern winds.

MINIATURE ALMANAC—Sun rises, 4:49; sun sets, 7:27. High water, 1:34 and 2:31 a. m.; low water, 8:35 and 9:45 p. m.

Local Meteorological Data.

(FOR 24 HOURS ENDING 8 O'CLOCK LAST NIGHT.)

U. S. DEPARTMENT OF AGRICULTURE, WEATHER BUREAU, Local Office, Dodson Building, NORFOLK, VA., June 29, 1895.

Maximum temperature..... 85

Minimum temperature..... 70

Normal temperature deduced from 29 years' observation..... 76

Departure from normal..... plus 2

Accumulated departure for the month..... 0

Accumulated departure since Jan. 1..... -263

Rainfall for 24 hours..... 1.13

Rainfall since 1st of the month..... 1.87

J. J. GRAY, Observer.

New York Truck Market.

By Southern Associated Press.

New York, June 27.—Muskmelons, Florida, barrel, \$1.35; basket, 50c to \$1.50; do Charleston, basket, \$1.00 to \$1.50.

Blackberries—North Carolina, quart, 6c to 12c; do Maryland and Delaware, quart, 6c to 12c.

Huckleberries—North Carolina, quart, 6c to 10c; do Maryland and Delaware, quart, 5c to 8c.

Peaches—Georgia, carrier, \$1.00 to 2.25; do case, 50c to \$1; do South Carolina carrier, \$1.00 to 1.25; do case, 50c to \$1; North Carolina, carrier, \$1.50 to 2.50.

Plums—Georgia, wild goose, carrier, \$1.50 to 2.00.

Grapes—Florida, Niagara, case, \$2.50 to 3.50.

Raspberries—Maryland and Delaware pint, 35c.

Watermelons—Florida, per hundred, \$12 to 20.

Apples—Georgia, carrier, \$1.25 to 2.00; North Carolina, green, barrel, \$1.00 to 2.00.

Cucumbers—Charleston, basket, 40c to 60c; do Norfolk, basket, 60c to 75c.

Cabbages—Norfolk, 30c to 50c.

Pears—Barrel, \$3.50 to \$5.00; do crate, \$1.25 to \$1.50.

Plums—Georgia, carrier, \$2.50 to 3.50.

Egg Plant—Florida, half barrel, \$1.50 to 1.75; do Charleston, basket, \$1.00 to 1.25; do barrel, \$2.25 to 2.50; do Virginia, potato barrel, \$2; do do basket, 90c to \$1; do mean barrel, \$2.25 to 2.50.

Potatoes—Idaho, \$1.75 to \$3.00; do Chili red, \$1.75 to \$2.25; do poor to fair, \$1.00 to \$1.75; do, early, 50c to 75c.

String beans—Norfolk wax, basket, \$1.50 to 1.75; do green, basket, \$1.50 to 1.75; do Maryland, wax, basket, \$1.50 to 1.75; do Norfolk, summer, half barrel, 50c to 75c; do Florida, marrow, barrel, \$1.25 to 1.50.

Tomatoes—Florida, choice, carrier, \$1.50 to 1.75; do do common, carrier, \$1.25 to 1.50; do Savannah, crate, \$1.25 to 1.50.